



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-186 Tax on cigarettes.**

Date last reviewed: **April 1999**

Current Reviewer: **Cindy Evans**

Date current review completed: **October 22, 2001**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** **X**

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s): This rule provides tax-reporting information to persons who sell, use, consume, handle, possess, or distribute cigarettes. The rule explains who is liable for the tax, how and when the cigarette tax imposed by Chapter 82.24 is to be paid, and the record keeping requirements.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

YES	NO	
X¹		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?



	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

X¹ Chapter 193 §§ 4-5, Laws of 1999 - informing taxpayers that cigarettes that do not conform with the Federal Cigarette Labeling and Advertising Act; have been imported into the United States in violation of 26 USC section 5754; or have been labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or similar wording indicating that the manufacturer did not intend that the product be sold in the U.S cannot have stamps affixed and will be destroyed.

Chapter 235 §§ 6-8, Laws of 2001 - informing taxpayers that RCW 82.24 does not apply to cigarette tax contracts, changing the amount of compensation paid to wholesalers who affix stamps, and the requirement that in order qualify for a wholesaler's license the applicant must undergo a criminal background check.

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

Interpretive statements (e.g., ETAs and PTAs):

Court Decisions:

***Robertson v. Washington State Liquor Control Bd.*, 102 Wn. App. 848, 10 P. 3d 1079 (2000)(holding that RCW 82.24.130(1) and 82.24.250 are not preempted by the Federal Aviation Administration Authorization Act of 1994 (49 U.S. § 25602(c)).**



Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs):

Determination No. 98-040, 17 WTD 260 (1998)(holding that sales of unstamped cigarettes to an out-of-state customer are not exempt from cigarette tax where testimony indicates that the unstamped cigarettes were delivered to a Washington address for local pick-up by the customer).

Determination No. 99-053, 19 WTD 50 (2000)(holding that a taxpayer must show "good cause" for the Department to abate the penalty for possession of unstamped packages of cigarettes).

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

4. Review Recommendation:

<u>X</u>	Amend
_____	Repeal (Appropriate when repeal is not conditioned upon another rule-making action.)
_____	Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.)
_____	Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).



Rule 186 should be revised to incorporate amendments to Chapter 82.24 RCW by chapter 278, Laws of 1995, chapter 420, Laws of 1997, chapter 235, Chapter 193, Laws of 1999, and Laws of 2001. The rule should also be revised to discuss current reporting requirements utilizing the Department's Schedule C (Form REV 82 2103), and to remove unnecessary language now found in subsections 5, 7, and 8 of this rule.

When Rule 186 is revised, a citation to WAC 458-20-264 (National Uniform Tobacco Settlement) should be added.

5. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

_____ 1
_____ 2
_____ 3
_____ 4